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IN THE HIGH COURT OF JUDICATURE AT PATNA
Civil Writ Jurisdiction Case No.5381 of 2003

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1. Wakil Rishi
2. Brahmadeo Rishi
3. Sushil Rishi
4. Jagdish Rishi all sons of Late Baishakhi Rishi residents of village Hasaili, P.S. Falka, Katihar

.... Petitioner/s

Versus

1. The State Of Bihar
2. The Sub divisional Officer, Katihar
3. The Circle Officer, Falka, Katihar
4. Mazid Ansari son of Noor Mohammad resident of village Hasaili Pirmukam P.S. Falka, Katihar
5. Mahendra Sinha son of late Hari Krishna Prasad
6. Indra Kumar Sinha son of late Hari Krishna Prasad both residents of villate Babhni P.S. Falka P.O. Pirmukam, Katihar

.... Respondent/s

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Appearance :
For the Petitioner/s : Mr. Baidyanath Prasad &
Mr. Suresh Prasad Baranwal
Mr. Vinod Shankar Modi

For the State Mr. Binod Kumar
For the respondents Mr. Rajendra Prasad Sah
Mr. Ratnakar Ambastha

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CORAM: HONOURABLE MR. JUSTICE KISHORE KUMAR MANDAL
ORAL ORDER

12 16-08-2013 Heard counsel for the petitioners and the State.

Nobody has appeared on behalf of the private respondents, although Vakalatnama has been filed on their behalf.

The petitioners claim themselves to be the under tenant of the subject land who have graduated to be treated as tenant(s) of the land under section 48D of the Bihar Tenancy Act (for short 'the Act'). In fact an order was passed to that effect by

the Respondent-Circle Officer. Aggrieved by the aforesaid order, the private respondents filed appeal before the Sub Divisional Officer, Katihar vide Case No. 6/98. The appellate authority interfered with the original order passed by the Respondent Circle Officer dated 31.12.1997, inter alia, on the ground that the order passed by the respondent concerned is contrary to the provisions contained in section 48C of the Act. In other words, the land holder is the protected tenant.

Learned counsel for the State has drawn attention of this Court to the provisions contained in the Bihar Land Tribunal Act 2009 and in particular section 15 thereof which reads thus:-

> **"15. Transfer of proceedings pending in Patna High Court/State Government to the Tribunal.-** All cases connected with the Acts/Manuals dealt with under Section 9 of this Act and pending in the High Court of Judicature at Patna but excluding writ petitions filed under Articles 226 and 227 of the Constitution of India and cases pending with the State Government, immediately before the commencement of this Act, as could have been within the jurisdiction of such Tribunal, and cases arising after the commencement of this Act, as would have been within the jurisdiction of such Tribunal, shall stand transferred to the Tribunal with effect from the said date of commencement:

Provided further that it shall be open to the High Court of Judicature at Patna to remit the dispute pending adjudication in any writ proceeding before it for adjudication by the Tribunal."

It appears that such matter in the light of the provision contained in the Act is now required to be considered by the Tribunal constituted under the Act.

Learned counsel for the State submits that the Tribunal is now functioning.

In view of aforesaid let the records of this case be transferred to the Tribunal within two weeks for disposal in accordance with law.

(Kishore Kumar Mandal, J)

HR/-